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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/080,211 | 02/21/2002 | Thomas Hunot | 8210 | 3053 |
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| POLSTER, LIEDER, WOODRUFF & LUCCHESI, L.C. Suite 230 763 South New Ballas Road St. Louis, MO 63141 | | | BECKER, DREW E | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1761 | |

DATE MAILED: 01/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-------------------------------|------------------------------|
| Office Action Summary | Application No. 10/080,211 | Applicant(s) HUNOT ET AL. |
| | Examiner Drew E Becker | Art Unit 1761 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 24 May 2002.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-37 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-10 and 13-37 is/are rejected.
- 7) Claim(s) 11 and 12 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
- 4) Interview Summary (PTO-413) Paper No(s) _____ .
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____ .

DETAILED ACTION***Priority***

1. An application in which the benefits of an earlier application are desired must contain a specific reference to the prior application(s) in the first sentence of the specification or in an application data sheet (37 CFR 1.78(a)(2) and (a)(5)). The specific reference to any prior nonprovisional application must include the current status, for instance "now Pat. No. 6,393,971".

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dolce [Pat. No. 2,604,842] in view of Kernick [Pat. No. 2,253,434].

Dolce teaches an apparatus comprising a housing and support frame (Figure 1, #10,12, 14, 16, 18), plural tubular cooking members (Figure 1, 26), means for driving the tubular cooking members (Figure 1, 30), an endless belt (Figure 1, 50), a drive member (Figure 2, 46), idler members (Figure 2, 38), a structural reinforcement member with first and second extensions (Figure 1, 32 & 40), and an electric motor (Figure 1, 60). Dolce does not teach the use of a chain and sprockets. Kernick teaches an apparatus comprising a chain and sprockets

(Figure 2, 15-18) which cause tubular cooking members (Figure 1, 32-34) to rotate. It would have been obvious to one of ordinary skill in the art to incorporate the chain and sprockets of Kernick into the invention of Dolce since both are directed to roller grills, since Dolce already includes pulleys and a belt (Figure 2), and since chain commonly possess a longer service life compared to belts and also do not stretch over time as belts do. It would have been obvious to one of ordinary skill in the art to include a cover for the drive system of Dolce since these were commonly used and since they prevent accidents by keeping foreign objects out.

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Diggity Slant in view of Bardeau et al [Pat. No. 3,472,156].

Diggity Slant teach a roller grill device comprising a housing with first and second ends, and tubular cooking members angling from the first end to the second end of the frames at 3-5° (item 389). Diggity Slant does not teach bearing members mounted in holes of the frames which receive the tubular cooking members.

Bardeau et al teach a roller grill device comprising bearing members mounted in holes of the frames which receive the tubular cooking members (Figure 4, 29). It would have been obvious to one of ordinary skill in the art to incorporate the bearings of Bardeau et al into the invention of Diggity Slant since both are directed to roller grills, since Bardeau et al teach the freedom of movement which was provided by the bearings (column 3, lines 55-65), and since rotating member, such as roller grills, commonly had bearings.

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5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Diggity Slant and Bardeau et al as applied above, and further in view of Dolce and Kernick.

Diggity Slant and Bardeau et al teach the above mentioned concepts. Diggity Slant and Bardeau et al do not teach a drive chain, a drive member, and an idler member. Dolce teaches an apparatus comprising a drive member (Figure 2, 46) and an idler member (Figure 2, 38). Kendrick teaches an apparatus comprising a chain (Figure 1, 18). It would have been obvious to one of ordinary skill in the art to incorporate the drive system of Dolce into the invention of Diggity Slant since both are directed to roller grills, since Diggity Slant requires some type of drive system, and since the belt system of Dolce allows the tubular cooking members to be more easily removed for cleaning or replacement (column 1, lines 7-51). It would have been obvious to one of ordinary skill in the art to incorporate the chain and sprockets of Kernick into the invention of Diggity Slant in view of Dolce since all are directed to roller grills and since chains commonly possess a longer service life compared to the belts of Dolce and also do not stretch over time as belts are prone to do.

6. Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Senneville et al [Pat. No. 6,166,353] in view of Snyder et al [Pat. No. 3,756,219].

Senneville et al teach an apparatus comprising a housing (Figure 1, 12), tubular means for heating (Figure 3, 36), control means mounted on a control panel (Figure 2, 26 & 28), a compartment assembly (Figure 2), two track members

(Figure 2, 24), a cover (Figure 2, 22), a cross strut (Figure 4, 50), a pan (Figure 5, 22), the cover acting to cover the control panel (Figures 1-2), a bottom wall (Figure 6, 146), bearing members (Figure 8, 186), a control panel which controls heating (Figure 2, 26) and a cover for the control panel (Figure 2, 22). Snyder et al teach an apparatus with a hinged cover comprising a pin with a shoulder section (Figure 4, 40 & 58), a means for biasing (Figure 4, 34), and first and second holes (Figure 4, 44 & 50). It would have been obvious to one of ordinary skill in the art to incorporate the spring mechanism of Snyder et al into the invention of Senneville et al since both are directed to cooking devices, since Senneville et al already includes a movable cover, since spring loaded covers were less prone to accidental opening, and since spring loaded doors were commonly known and utilized as shown by Snyder et al.

7. Claims 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berk's Roller Grill in view of Senneville et al.

Berk's Roller Grill comprises a housing, tubular cooking members, and heating control means on a control panel (Figure). Senneville et al teach a device comprising a control panel which controls heating (Figure 2, 26) and a cover for the control panel (Figure 2, 22). Snyder et al teach an apparatus with a hinged cover comprising a pin with a shoulder section (Figure 4, 40 & 58), a means for biasing (Figure 4, 34), and first and second holes (Figure 4, 44 & 50). It would have been obvious to one of ordinary skill in the art to incorporate the control cover of Senneville et al into Berk's Roller Grill since both are directed to devices with warming drawers, since Berk's Roller Grill has a front mounted control

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panel, and since the cover of Senneville et al would prevent damage to the control panel of Berk's Roller Grill. It would have been obvious to one of ordinary skill in the art to include rollers with the sliding compartment of Senneville et al since Senneville et al already included roller bearings (Figure 8, #186) and since roller wheels were commonly used for sliding drawers and compartments.

8. Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dolce, in view of Kernick, as applied above, and further in view of Dumas [Pat. No. 2,185,979].

Dolce and Kernick teach the above mentioned components. Dolce and Kernick do not teach a sheathed heater with a wound spiral element and a tetrafluororthylene coating. Dumas teaches an apparatus comprising a housing with a pair of frames (Figure 2, 10-12), plural tubular cooking members (Figure 1, 14), a heat conducting sheath (Figure 6, 15), a wound spiral electrical heating element (Figure 6, 17), electrical contacts (Figure 7, 46-50), heat dispersing material (Figure 6, 16), and two cover structures with opening which receive the tubular cooking members (Figure 2, 31). It would have been obvious to one of ordinary skill in the art to incorporate the heater structure of Dumas into the invention of Dolce, in view of Kernick, since all are directed to cooking devices, since Dolce already included heated rollers (Figure 1, #28), and since the internal heaters of Dumas would have eliminated the need for an external heat source, as used by Dolce, and thus permitted indoor use. It would have been obvious to one of ordinary skill in the art to coat the tubular cooking members of Dolce with

tetrafluoroethylene since this was conventionally done to cooking surfaces in order to prevent food from sticking.

9. Claims 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Senneville et al in view of Craver [Pat. No. 4,817,585].

Senneville et al teach an apparatus comprising a housing (Figure 1, 12), tubular means for heating (Figure 3, 36), control means mounted on a control panel (Figure 2, 26 & 28), a compartment assembly (Figure 2), two track members (Figure 2, 24), a cover (Figure 2, 22), a cross strut (Figure 4, 50), a pan (Figure 5, 22), the cover acting to cover the control panel (Figures 1-2), a bottom wall (Figure 6, 146), bearing members (Figure 8, 186), a control panel which controls heating (Figure 2, 26) and a cover for the control panel (Figure 2, 22). Craver teaches an apparatus with pivot means comprising a spring with a bight (Figure 2, 108), bosses (Figure 4, 102-103), and pins (Figure 4, 105). It would have been obvious to one of ordinary skill in the art to incorporate the hinge mechanism of Craver into Berk's Roller Grill in view of Senneville et al since all were directed to cooking devices, since Senneville et al already includes a movable cover, since spring loaded covers were less prone to accidental opening, and since hinged doors were commonly known and utilized as shown by Craver.

10. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dolce, in view of Kernick, as applied above, and further in view of Snyder et al and Senneville et al.

Dolce and Kernick teach the above mentioned components. Senneville et al teach an apparatus comprising a housing (Figure 1, 12), tubular means for

heating (Figure 3, 36), control means mounted on a control panel (Figure 2, 26 & 28), a compartment assembly (Figure 2), two track members (Figure 2, 24), a cover (Figure 2, 22), a cross strut (Figure 4, 50), a pan (Figure 5, 22), the cover acting to cover the control panel (Figures 1-2), a bottom wall (Figure 6, 146), bearing members (Figure 8, 186), a control panel which controls heating (Figure 2, 26) and a cover for the control panel (Figure 2, 22). Snyder et al teach an apparatus with a hinged cover comprising a pin with a shoulder section (Figure 4, 40 & 58), a means for biasing (Figure 4, 34), and first and second holes (Figure 4, 44 & 50). It would have been obvious to one of ordinary skill in the art to incorporate the cover of Senneville et al into the invention of Dolce, in view of Kernick, since all are directed to cooking devices, since Dolce already included an electric motor which would have required controls, and since the hidden control panel of Senneville et al would have prevented accidental setting changes. It would have been obvious to one of ordinary skill in the art to incorporate the spring mechanism of Snyder et al into the invention of Dolce, in view of Kernick and Senneville et al, since all are directed to cooking devices, since Senneville et al already includes a movable cover, since spring loaded covers were less prone to accidental opening, and since spring loaded doors were commonly known and utilized as shown by Snyder et al.

11. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dolce, in view of Kernick, as applied above, and further in view of Senneville et al.

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Dolce and Kernick teach the above mentioned components. Senneville et al teach an apparatus comprising a housing (Figure 1, 12), tubular means for heating (Figure 3, 36), control means mounted on a control panel (Figure 2, 26 & 28), a compartment assembly (Figure 2), two track members (Figure 2, 24), a cover (Figure 2, 22), a cross strut (Figure 4, 50), a pan (Figure 5, 22), the cover acting to cover the control panel (Figures 1-2), a bottom wall (Figure 6, 146), bearing members (Figure 8, 186), a control panel which controls heating (Figure 2, 26) and a cover for the control panel (Figure 2, 22). It would have been obvious to one of ordinary skill in the art to incorporate the compartment of Senneville et al into the invention of Dolce, in view of Kernick, since all are directed to cooking devices, since Dolce was directed to the cooking of hotdogs, since hotdogs commonly required buns, and since the compartment of Senneville et al would have provided a convenient location for storage and warming of the buns.

12. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dolce, in view of Kernick and Senneville et al, as applied above, and further in view of Craver.

Dolce, Kernick, and Senneville et al teach the above mentioned components. Craver teaches an apparatus with pivot means comprising a spring with a bight (Figure 2, 108), bosses (Figure 4, 102-103), and pins (Figure 4, 105). It would have been obvious to one of ordinary skill in the art to incorporate the hinge mechanism of Craver into Dolce, in view of Kernick and Senneville et al, since all were directed to cooking devices, since Senneville et al already included a

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movable cover, since spring loaded covers were less prone to accidental opening, and since hinged doors were commonly known and utilized as shown by Craver.

13. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dolce, in view of Kernick and Senneville et al, as applied above, and further in view of Bardeau et al.

Dolce, Kernick, and Senneville et al teach the above mentioned components. Bardeau et al teach a roller grill device comprising bearing members mounted in holes of the frames which receive the tubular cooking members (Figure 4, 29). It would have been obvious to one of ordinary skill in the art to incorporate the bearings of Bardeau et al into the invention of Dolce, in view of Kernick and Senneville et al, since all are directed to cooking devices, since Bardeau et al teach the freedom of movement which was provided by the bearings (column 3, lines 55-65), and since rotating members, such as roller grills, commonly had bearings.

14. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dolce, in view of Kernick, Senneville et al, and Bardeau et al, as applied above, and further in view of Dumas.

Dolce, Kernick, Senneville et al, and Bardeau et al teach the above mentioned components. Dumas teaches an apparatus comprising a housing with a pair of frames (Figure 2, 10-12), plural tubular cooking members (Figure 1, 14), a heat conducting sheath (Figure 6, 15), a wound spiral electrical heating element (Figure 6, 17), electrical contacts (Figure 7, 46-50), heat dispersing material

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(Figure 6, 16), and two cover structures with opening which receive the tubular cooking members (Figure 2, 31). It would have been obvious to one of ordinary skill in the art to incorporate the heater structure of Dumas into the invention of Dolce, in view of Kernick, Senneville et al, and Bardeau et al, since all are directed to cooking devices, since Dolce already included heated rollers (Figure 1, #28), and since the internal heaters of Dumas would have eliminated the need for an external heat source, as used by Dolce, and thus permitted indoor use. It would have been obvious to one of ordinary skill in the art to coat the tubular cooking members of Dolce with tetrafluoroethylene since this was conventionally done to cooking surfaces in order to prevent food from sticking.

15. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dolce, in view of Kernick and Senneville et al, as applied above, and further in view of Jow [Pat. No. 5,111,956]

Dolce, Kernick, and Senneville et al teach the above mentioned components. Jow teaches a food cover comprising legs, sidewalls, openings, a top, and flaps (Figure 8). It would have been obvious to one of ordinary skill in the art to incorporate the cover of Jow into the invention of Dolce, in view of Kernick and Senneville et al, since all are directed to cooking devices, since roller grills commonly had covers, and since the cover of Jow effectively provided a shield for the food items.

16. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berk's Roller Grill, in view of Senneville et al, as applied above, and further in view of Bardeau et al.

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Berk's Roller Grill and Senneville et al teach the above mentioned components. Bardeau et al teach a roller grill device comprising bearing members mounted in holes of the frames which receive the tubular cooking members (Figure 4, 29). It would have been obvious to one of ordinary skill in the art to incorporate the bearings of Bardeau et al into the device of Berk's Roller Grill, in view of Senneville et al, since all are directed to cooking devices, since Bardeau et al teach the freedom of movement which was provided by the bearings (column 3, lines 55-65), and since rotating members, such as roller grills, commonly had bearings.

17. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berk's Roller Grill, in view of Senneville et al and Bardeau et al, as applied above, and further in view of Diggity Slant.

Berk's Roller Grill, Senneville et al, and Bardeau et al teach the above mentioned components. Diggity Slant teach a roller grill device comprising a housing with first and second ends, and tubular cooking members angling from the first end to the second end of the frames at 3-5° (item 389). It would have been obvious to one of ordinary skill in the art to incorporate the slanted rollers of Diggity Slant into the device of Berk's Roller Grill, in view of Senneville et al and Bardeau et al, since all are directed to cooking devices, since roller grills were commonly slanted, and since slanted rollers would have presented a better view for the consumer.

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18. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berk's Roller Grill, in view of Senneville et al, Bardeau et al, and Diggity Slant, as applied above, and further in view of Dumas.

Berk's Roller Grill, Senneville et al, Diggity Slant, and Bardeau et al teach the above mentioned components. Dumas teaches an apparatus comprising a housing with a pair of frames (Figure 2, 10-12), plural tubular cooking members (Figure 1, 14), a heat conducting sheath (Figure 6, 15), a wound spiral electrical heating element (Figure 6, 17), electrical contacts (Figure 7, 46-50), heat dispersing material (Figure 6, 16), and two cover structures with opening which receive the tubular cooking members (Figure 2, 31). It would have been obvious to one of ordinary skill in the art to incorporate the heater structure of Dumas into the device of Berk's Roller Grill, in view of Senneville et al, Bardeau et al, and Diggity Slant, since all are directed to cooking devices, since Berk's Roller Grill already included heated rollers, and since the sheathed rollers of Dumas would have provided more even heating.

19. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berk's Roller Grill, in view of Senneville et al and Bardeau et al, as applied above, and further in view of Jow.

Berk's Roller Grill, Senneville et al, and Bardeau et al teach the above mentioned components. Jow teaches a food cover comprising legs, sidewalls, openings, a top, and flaps (Figure 8). It would have been obvious to one of ordinary skill in the art to incorporate the cover of Jow into the device of Berk's Roller Grill, in view of Senneville et al and Bardeau et al, since all are directed to cooking

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devices, since roller grills commonly had covers, and since the cover of Jow effectively provided a shield for the food items.

20. Claims 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berk's Roller Grill, in view of Senneville et al and Bardeau et al, as applied above, and further in view of Craver.

Berk's Roller Grill, Senneville et al, and Bardeau et al teach the above mentioned components. Craver teaches an apparatus with pivot means comprising a spring with a bight (Figure 2, 108), bosses (Figure 4, 102-103), and pins (Figure 4, 105). It would have been obvious to one of ordinary skill in the art to incorporate the hinge mechanism of Craver into Berk's Roller Grill, in view of Senneville et al and Bardeau et al, since all were directed to cooking devices, since Senneville et al already included a movable cover, since spring loaded covers were less prone to accidental opening, and since hinged doors were commonly known and utilized as shown by Craver.

21. Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berk's Roller Grill, in view of Senneville et al, Craver, and Bardeau et al, as applied above, and further in view of Diggity Slant.

Berk's Roller Grill, Senneville et al, Craver, and Bardeau et al teach the above mentioned components. Diggity Slant teach a roller grill device comprising a housing with first and second ends, and tubular cooking members angling from the first end to the second end of the frames at 3-5° (item 389). It would have been obvious to one of ordinary skill in the art to incorporate the slanted rollers of Diggity Slant into the device of Berk's Roller Grill, in view of Senneville et al,

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Craver, and Bardeau et al, since all are directed to cooking devices, since roller grills were commonly slanted, and since slanted rollers would have presented a better view for the consumer.

22. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berk's Roller Grill, in view of Senneville et al, Craver, Diggity Slant, and Bardeau et al, as applied above, and further in view of Dumas.

Berk's Roller Grill, Senneville et al, Craver, Diggity Slant, and Bardeau et al teach the above mentioned components. Dumas teaches an apparatus comprising a housing with a pair of frames (Figure 2, 10-12), plural tubular cooking members (Figure 1, 14), a heat conducting sheath (Figure 6, 15), a wound spiral electrical heating element (Figure 6, 17), electrical contacts (Figure 7, 46-50), heat dispersing material (Figure 6, 16), and two cover structures with opening which receive the tubular cooking members (Figure 2, 31). It would have been obvious to one of ordinary skill in the art to incorporate the heater structure of Dumas into the device of Berk's Roller Grill, in view of Senneville et al, Craver, Bardeau et al, and Diggity Slant, since all are directed to cooking devices, since Berk's Roller Grill already included heated rollers, and since the sheathed rollers of Dumas would have provided more even heating.

23. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Berk's Roller Grill, in view of Senneville et al, Craver, and Bardeau et al, as applied above, and further in view of Jow.

Berk's Roller Grill, Senneville et al, Craver, and Bardeau et al teach the above mentioned components. Jow teaches a food cover comprising legs, sidewalls,

openings, a top, and flaps (Figure 8). It would have been obvious to one of ordinary skill in the art to incorporate the cover of Jow into the device of Berk's Roller Grill, in view of Senneville et al and Bardeau et al, since all are directed to cooking devices, since roller grills commonly had covers, and since the cover of Jow effectively provided a shield for the food items.

Allowable Subject Matter

24. Claims 11-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

25. The following is a statement of reasons for the indication of allowable subject matter: the grill assembly of dependent claim 11 defines over the prior art of record since the prior art does not teach, suggest, nor render obvious the pin having a first shaft section, a second enlarged shoulder, a third engagement section extending away from the shaft, a spring with its first end abutting the pin shoulder and the spring second end abutting the cover structure about the second hole so that it is biased in a direction toward the first hole.

Response to Arguments

26. Applicant's arguments filed February 21, 2002 have been fully considered but they are not persuasive.

In response to applicant's argument that the examiner has combined an excessive number of references, reliance on a large number of references in a

rejection does not, without more, weigh against the obviousness of the claimed invention. See *In re Gorman*, 933 F.2d 982, 18 USPQ2d 1885 (Fed. Cir. 1991).

The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E Becker whose telephone number is 571-272-1396. The examiner can normally be reached on Monday-Thursday 8am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-0987.


Drew E Becker
Primary Examiner
Art Unit 1761

1-S04